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December 15, 1992

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DEC 15 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

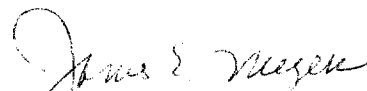
Re: MM Docket No. 92-260

Dear Ms. Searcy:

We are submitting herewith on behalf of Americable International, Inc. an original and nine (9) copies of its Reply Comments in the above-captioned matter.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,



James E. Meyers
Counsel for
AMERICABLE INTERNATIONAL, INC.

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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FILE

RECEIVED
DEC 15 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the)
Cable Television Consumer)
Protection and Competition)
Act of 1992)
)
Cable Home Wiring)

MM Docket No. 92-260

To: The Commission

REPLY COMMENTS OF AMERICABLE INTERNATIONAL, INC.

Americable International, Inc. ("Americable"), through undersigned counsel, submits its reply comments in this matter above-captioned. Americable's reply is directed to the comments of the Secretary of Defense.

Americable observes that the Secretary of Defense likewise recognizes the peculiar situation of cable television on military reservations wherein the franchising authority is either or both the "subscriber" and the owner of the premises. Unlike civilian cable television franchising arrangements, wherein the cable operator has a franchise with a governmental authority, but provides service through contracts with private, non-government, customer-subscribers, military franchising arrangements permit the franchising authority inordinate power over cable television operations with no safeguards against, for example, action with respect to subscriber arrangements

motivated by concerns stemming from the franchise arrangement. The cable operator is oftentimes the holder of an authorization of adhesion, with little or no recourse, and the cable operator oftentimes accedes to requests of the military base authority regardless if required under the franchise (such as line extensions and internal wiring build-outs) merely to preserve good will.

While Americable is not implying that the Department of Defense or the Armed Services generally behaves unfairly towards cable operators, there are disputes which arise in the course of military franchise administration which are dealt with by the government from a position of command management foreign to civilian cable operators' experience with municipal franchising authorities. Section 16(d) of the 1992 Cable Act should not become an additional basis for carrying on exacerbating any such dispute.

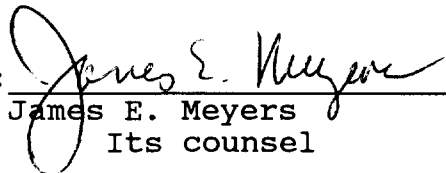
The Department of Defense's notion that the Commission's regulations be based on the subjective criterion of the cable operator's perceived "good faith" illustrates Americable's concern. Comments of Department of Defense at 4. Should the government not be satisfied that the cable operator is in good faith, then, under its proposal for section 16(d) implementation, it would possess the right to either "take the cable" or require the cable operator to remove it. Id. The government would require as much in the franchise, in order to avoid what it

characterizes as a "'taking' problem." Id. at 3, 4 ("An automatic shifting of ownership could give rise to a Fifth Amendment 'taking' problem on a military installation.")

Americable thus reiterates its concern that the Commission recognize the special problem of military installations in promulgating its regulations under section 16(d). To avoid any potential for abuse, the regulations should ensure that cable operators receive, at a minimum, compensation for home wiring reflecting the cost of the wiring adjusted for inflation. The regulations should also permit the cable operator at its option, to either remove or abandon its home wiring if the military facility does not acquire it.

Respectfully submitted,

AMERICABLE INTERNATIONAL, INC.

By: 
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Its counsel

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